

REMARKS

The Applicant thanks the Examiner for the careful consideration of this application. Claims 1, 4, 7-12, 14-17, and 51-87 are currently pending. Claims 1, 66, 73, 84, 85, and 87 have been amended. Claim 6 has been cancelled, without prejudice, and its subject matter has been incorporated into claim 1. Based on the foregoing amendments and the following remarks, the Applicant respectfully requests that the Examiner reconsider all outstanding rejections and that they be withdrawn.

Rejections under 35 U.S.C. § 102

The Office Action rejected claims 66-73 and 75-83 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent Application Publication No. 2001/0010332 to Bismarck et al. ("Bismarck"). The Applicant traverses this rejection. Nevertheless, solely to further prosecution, independent claims 66 and 73 have been amended. The Applicant submits that independent 66 and 73, and their respective dependent claims, are patentable over Bismarck for at least the following reasons.

(a) Claims 66-72

Bismarck does not disclose a "three dimensional box including a . . . first portion and [a] second portion defin[ing] a gap width between the first portion and the second portion when in the closed position; and a mark for identification of the package . . . comprising the gap width," as recited by claim 66.

The Office Action aligns the blank 23 and the lid 13 of Bismarck's Figs. 4-5 with the

claimed “first portion” and “second portion,” respectively. In addition, the Office Action aligns the collar 17 of Bismarck’s Figs. 4-5 with claimed “gap width,” and further aligns the indicium 12 on the collar 17 with the claimed “mark for identification of the package.” However, Bismarck’s collar 17 does not comprise a “gap width” between the blank 23 and the lid 13 when in the closed position, as claimed. Rather, as shown in Bismarck’s Figs. 4-5, the collar 17 appears to be a recess formed in the upper region of the lid 13. Furthermore, Bismarck’s indicium 12 is not located on a gap between the blank 23 and the lid 13 when in the closed position. Therefore, Bismarck does not disclose a “three dimensional box including a . . . first portion and [a] second portion defin[ing] a gap width between the first portion and the second portion when in the closed position; and a mark for identification of the package . . . comprising the gap width,” as recited by claim 66.

Claims 67-72 depend from claim 66, and are patentable over Bismarck for at least the same reasons.

(b) Claims 73 and 75-83

Bismarck does not disclose a “foil wrapping including a first portion overlapping a second portion in an overlap region; and a mark for identification of the package, wherein the mark comprises . . . a shape or dimension of at least a portion of the overlap region,” as recited by claim 73.

The Office Action aligns the blank 32a and the tear strip 33a of Bismarck’s FIG. 4 with the claimed “first portion” and “second portion” of the foil wrapping, and further aligns the printed indicia 37 with the claimed “mark.” However, the printed indicia 37 does *not* comprise a

“shape or dimension” of at least a portion of the overlapping region between the tear strip 33a and the blank 32a, as claimed. Rather, the printed indicia 37 is *printed onto* the tear strip 33a, as disclosed by Bismarck at paragraph 0051, lines 7-9. Therefore, Bismarck does not disclose a “foil wrapping including a first portion overlapping a second portion in an overlap region; and a mark for identification of the package, wherein the mark comprises . . . a shape or dimension of at least a portion of the overlap region,” as recited by claim 73.

Claims 75-83 depend from claim 73, and are patentable over Bismarck for at least the same reasons.

Rejections under 35 U.S.C. § 103

The Office Action rejected claims 1, 4, 6-12, 14-17, 51-65, 74, and 84-87 under 35 U.S.C. § 103(a) as being obvious over Bismarck in view of U.S. Patent No. 7,089,420 to Durst et al. (“Durst”). The Applicant traverses this rejection. Solely to further prosecution, independent claims 1 and 84 have been amended. Claim 6 has been cancelled, without prejudice, and the subject matter thereof has been incorporated into claim 1. The Applicant submits that independent claims 1, 52, and 84, and their respective dependent claims, are patentable over Bismarck in view of Durst for at least the following reasons.

(a) Claims 1, 4, 7-12, 14-17, and 51

No reasonable combination of Bismarck and Durst discloses or renders obvious “a mark for identification of the package, wherein the mark comprises a non-predetermined random identifier comprising a distribution of luminophores intermixed with fibers of the fibrous

material; and a marking located on the package separately from the mark, wherein the marking is correlated with the distribution of luminophores,” as recited by claim 1.

The Office Action aligns the indicia 37 of Bismarck’s Fig. 4 with the claimed “mark for identification of the package.” The Office Action acknowledges that Bismarck fails to disclose the claimed “luminophores,” but instead cites to the dichroic fibers 53 and 60A disclosed by Durst. In rejecting claim 6 (now incorporated into claim 1), the Office Action also aligns the indicia 37 of Bismarck’s Fig. 4 with the claimed “marking.” However, Bismarck’s indicia 37 is not “located on the package separately from” the indicia 37, because they are the same item, as shown in Bismarck’s Fig. 4. Furthermore, no reasonable combination of Bismarck and Durst discloses or renders obvious a separate marking that is correlated with the distribution of Durst’s dichroic fibers 53 or 60A. Accordingly, no reasonable combination of Bismarck and Durst discloses or renders obvious “a mark for identification of the package, wherein the mark comprises a non-predetermined random identifier comprising a distribution of luminophores intermixed with fibers of the fibrous material; and a marking located on the package separately from the mark, wherein the marking is correlated with the distribution of luminophores,” as recited by claim 1.

Claims 4, 7-12, 14-17, and 51 depend from claim 1, and are patentable over Bismarck in view of Durst for at least the same reasons.

(b) Claims 52-65

No reasonable combination of Bismarck and Durst discloses or renders obvious “a mark for identification of the package, wherein the mark comprises . . . a distribution of luminophores

permeating the foil wrapping,” as recited by claim 52. The Office Action aligns the cellophane tear strip 33 of Bismarck’s Fig. 4 with the claimed “foil wrapping.” The Office Action acknowledges that Bismarck fails to disclose the claimed “luminophores,” but alleges that Durst teaches the claimed luminophores, apparently citing to the dichroic fibers 53 of Durst’s FIG. 6, and/or the dichroic fibers 60A of Durst’s FIGS. 7A-B. However, even if Bismarck and Durst were combined in the manner suggested by the Office Action, the proffered combination would not result in Durst’s dichroic fibers 53 or 60A permeating Bismarck’s tear strip 33.

This is because Durst discloses that the dichroic fibers 53 or 60A are dispersed throughout a paper certificate 50 or seal tape 58, 65, *not* dispersed throughout a cellophane tear strip. (See Durst at col. 45, ll. 11-16, 21-23.) Therefore, one of ordinary skill in the art considering Durst would not be lead to permeate Bismarck’s cellophane tear strip 33 with Durst’s dichroic fibers 53, 60A. Accordingly, no reasonable combination of Bismarck and Durst discloses or renders obvious “a mark for identification of the package, wherein the mark comprises . . . a distribution of luminophores permeating the foil wrapping,” as recited by claim 52.

Claims 53-65 depend from claim 52, and are patentable over Bismarck in view of Durst for at least the same reasons.

(c) Claim 74

Claim 74 depends from claim 73, which, as demonstrated previously, is patentable over Bismarck. Durst does not remedy the deficiencies of Bismarck. Accordingly, claim 74 is patentable over Bismarck in view of Durst.

(d) Claims 84-87

No reasonable combination of Bismarck and Durst discloses or renders obvious “a mark for identification of the package, wherein the mark comprises . . . an immiscible additive added to the ink printed on the label, the immiscible additive containing luminophores,” as recited by claim 84.

The Office Action aligns the printed indicia 37 of Bismarck’s Figs. 4-5 with the claimed “mark,” and aligns the information 42 of Bismarck’s Fig. 5 with the claimed “ink printed on the label.” The Office Action acknowledges that Bismarck fails to disclose the claimed “luminophores,” but alleges that Durst teaches the claimed luminophores, apparently citing to the dichroic fibers 53 of Durst’s FIG. 6, and/or the dichroic fibers 60A of Durst’s FIGS. 7A-B.

Even if Bismarck and Durst were combined in the manner suggested by the Office Action, the proffered combination would not disclose “an immiscible additive added to” Bismarck’s information 42, “the immiscible additive containing” Durst’s dichroic fibers 53 or 60A, as claimed. This is because Durst discloses that the dichroic fibers 53 and 60A are dispersed throughout a paper certificate 50 or seal tape 58, 65, *not* contained in an immiscible additive added to ink. (See Durst at col. 45, ll. 11-16, 21-23.) Accordingly, no reasonable combination of Bismarck and Durst discloses or renders obvious “a mark for identification of the package, wherein the mark comprises . . . an immiscible additive added to the ink printed on the label, the immiscible additive containing luminophores,” as recited by claim 84.

Claims 85-87 depend from claim 84, and are patentable over Bismarck in view of Durst

for at least the same reasons.

Conclusion

All of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicant, therefore, respectfully requests that the Examiner reconsider all presently outstanding rejections and that they be withdrawn. Applicant believes that a full and complete reply has been made to the outstanding Office Action and, as such, the present application is in condition for allowance. If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is hereby invited to telephone the undersigned at the number provided.

Prompt and favorable consideration of this Amendment is respectfully requested.

Respectfully submitted,

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